

U.S. DISTRICT COURT
DISTRICT OF NEW JERSEY - TRENTON

HOSPIRA, INC., et al, :
Plaintiffs, : Docket No. 09-CV-4591
-vs- : Trenton, New Jersey
SANDOZ INTERNATIONAL GMBH, :
et al, :
Defendants. :

TRANSCRIPT OF TELECONFERENCE HEARD BEFORE
THE HONORABLE TONIANNE J. BONGIOVANNI, U.S.M.J.

TRANSCRIPT ORDERED BY:

MARY MCGUIRE-HOGAN, ESQ.
(Connell Foley)

A P P E A R A N C E S:

(No appearances given, all names phonetic)

A. SANTONIAN, ESQ.
Attorney for the Plaintiffs

EUGENE FRANK, ESQ.
(Wilke Pharr)
Attorney for the Plaintiffs

MR. DeMOORE, ESQ.
Attorney for the Defendants

I N D E X

12/15/10

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Conference

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1 (On record)

2 (Attorneys appearing via telephone)

3 THE COURT: Good morning, how are you?

4 MS. SANTONIAN: Good morning, Your Honor, how are
5 you?6 THE COURT: I'm good. Thank you for the letter, it
7 came in I guess yesterday and I can whine for half of a second
8 and say I was here and on the record last night at 8:30 last
9 night doing the settlement. Some people do know how to
10 settle, by the way.11 So I just perused it last night, but it looks fairly
12 straightforward. We have the two issues that you want to
13 place on the record sort of, I suppose, officially. And then
14 perhaps two other issues, I don't know if they're ripe yet.
15 But as to the first, you know, I'm fine with just so ordering
16 this letter that says that Sandoz Inc. is precluded from
17 directly relying on Sandoz Canada's new contentions.18 And I can add in there if, Mr. DeMoore, you would
19 like something that says -- Mr. Abraham, you want something
20 that says that, you know, you're free to argue res judicata or
21 collateral estoppel to the extent there is a ruling on those
22 issues and you feel that those are appropriate applications to
23 make to the Court, does that work?24 MR. DeMOORE: Your Honor, this is -- this is Mr.
25 DeMoore. Certainly if that's the order Your -- Your -- Your

Conference

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1 Honor wishes to enter, we appreciate that and -- and we'll
2 proceed.

3 THE COURT: Okay. And the second issue, apparently
4 this -- if this was something that I was involved in, I don't
5 recall, but the second issue regarding the personal
6 jurisdiction, Plaintiff wants to formalize your understanding
7 that Sandoz International has dropped that defense. What do
8 you need from me? Is an affirmation that that's so adequate,
9 and I can just again simply note that that was confirmed on
10 the record?

11 MR. DeMOORE: Your Honor, this is -- this is Mr.
12 DeMoore. We -- our view is that this issue had been -- had
13 been laid to rest until we saw Plaintiff's draft letter
14 yesterday. We told them that in this case Sandoz
15 International is not going to be proceeding with its personal
16 jurisdiction defense. Obviously we don't believe there's
17 personal jurisdiction. We're not waiving it for all purposes
18 right now or anything like that, but in this case we're not
19 proceeding with the personal jurisdiction defense or -- or
20 Sandoz International.

21 THE COURT: Okay.

22 MR. DeMOORE: So --

23 MS. SANTONIAN: Your Honor, if I may, it's Agna
24 (phonetic) Santonian (phonetic). And I think we're both on
25 the same page, Plaintiff's would just like to formalize that

Conference/Court Decision

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1 understanding.

2 THE COURT: Okay.

3 MS. SANTONIAN: There's still a defense in Sandoz
4 International's answer. I don't believe we filed any other
5 pleadings, so I had placed several calls to Mr. Abraham and
6 Christie at Hill Wallach just to figure what the best way
7 would be to formalize and input that on a record. We -- we
8 thought it would just simply be that Defendants or Sandoz
9 International could file an amended answer removing that
10 defense or we can enter a stipulation, but --

11 THE COURT: Well, how about if I just again
12 memorialize on this letter that was authored by Lisa Walsh
13 that it was so confirmed on the record on this date? You have
14 the --

15 MR. FRANK: This is Eugene Frank (phonetic) from
16 Wilke Pharr (phonetic). That -- that's fine with us.

17 MS. SANTONIAN: Okay.

18 THE COURT: All right. So I just will put that next
19 to number two and I'll note, you know, that on today's date --
20 I can't believe it's December 15th already -- that it was
21 confirmed and you have -- you can certainly order the
22 transcript as I expect you will, but in any event we'll have
23 this as an order and save you the time and energy of having to
24 put together a stipulation.

25 MS. SANTONIAN: That's fine, thank you, Your Honor.

Conference

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1 THE COURT: Okay.

2 AN ATTORNEY: --

3 THE COURT: What do you need from me as to the next
4 two?

5 MR. FRANK: Your Honor, this is Eugene again. The
6 -- I think the only issue left is -- is we would like to at
7 least reserve a date for Your Honor prior to January 14th,
8 which is the close of fact discovery in this case. We're --
9 we're working through a number of discovery issues. We -- we
10 expect to be able to work them through with -- amicably and
11 not trouble Your Honor with them, but just in case there are
12 any open issues, it'd be nice to have a date reserved.

13 THE COURT: Okay. And I assume Defendants have no
14 objection to that?

15 MR. DeMOORE: No and in fact, Your Honor, we join in
16 the request.

17 THE COURT: Okay. Can I have you hang on one second
18 because I didn't bring my calendar out and what I'd like to do
19 is set a date by which you will notify me of any issues and
20 then we'll have a couple of days later a telephone call set up
21 so that -- that I don't get an 11th hour submission and
22 because of things beyond your control or my control, I just
23 don't have the time to digest it.

24 So just bear with me one second, Tom just stepped
25 out to get my -- my calendar book.

Conference/Court Decision

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1 MS. SANTONIAN: Thank you, Your Honor, and you -- do
2 you prefer joint letter?

3 THE COURT: You know what, in -- in light of the
4 fact that we're -- we'll be abutting the holidays, it's fine
5 if I get a separate submission, but to the extent you can send
6 something in jointly, that would be great or at least perhaps
7 what we can have an agreement to is that you will do an
8 exchange of your positions early in the morning and then this
9 way I can get something later in the day that might have some
10 response, if it's complicated. I don't know how complicated
11 it will be.

12 MR. FRANK: Your Honor, I expect that won't be a
13 problem. We've been working pretty well with exchanging
14 positions and discussing them.

15 THE COURT: Great. Okay, how about if we do this.
16 If I have -- can I squeeze you to send to me your submission
17 on Friday the 7th? And frankly I don't care what time it
18 comes in during the day, but if I have something by close of
19 business on Friday the 7th, and if we have a telephone call on
20 Wednesday the 12th. And can I ask you to indulge me and can
21 we set it up at 4:30? It's a little bit later than I would
22 like to do for you, but does that work for everyone? And the
23 reason frankly, I have a little bit of a problem around that
24 time as I'm teaching at Seton Hall's Intercession, so I'm not
25 going to be here a couple of days that week.

Conference

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1 MR. FRANK: Your Honor, that works fine for us.

2 MR. DeMOORE: Same here, Judge.

3 MR. FRANK: Eugene for Wilke Pharr.

4 THE COURT: Okay. And I'm sorry, Mr. DeMoore, is it
5 okay with you folks on that end?

6 MR. DeMOORE: Yeah, thank you, Your Honor.

7 THE COURT: Okay. Can I have Plaintiffs just set up
8 the call for us and I won't have you send in a confirming
9 letter, I'll just ask Mark to do a minute entry for us that
10 we'll have this conference call on that date and that by the
11 7th you'll submit to me any outstanding issues.

12 And then I'll state the obvious that if there isn't
13 anything pressing that you need to talk to me about and you
14 want to cancel the conference call or move it, certainly feel
15 free to let me know.

16 And I'll also offer that if before hand the dust has
17 settled on everything and you want to reach out to me sooner,
18 I'll see what I can do to fit you in, in advance of that
19 January 12th scheduled date. Good?

20 MS. SANTONIAN: Thank you, Your Honor.

21 AN ATTORNEY: Thank you.

22 AN ATTORNEY: We appreciate that.

23 THE COURT: Okay. Anything else?

24 AN ATTORNEY: That's it, Your Honor.

25 THE COURT: Wonderful. This was relatively

Conference

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1 painless, I appreciate it. Enjoy the rest of the holiday
2 season if you're celebrating, certainly New Year and we'll
3 start afresh in January.

4 MS. SANTONIAN: Thank you.

5 THE COURT: Okay.

6 AN ATTORNEY: Thanks, Your Honor.

7 THE COURT: All right, bye, bye.

8 MS. SANTONIAN: Bye, bye.

(Off record)

CERTIFICATION

I, JENNIFER WILSON, the assigned transcriber, do hereby certify the foregoing transcript of proceedings before the U.S. District Court, District of New Jersey - Trenton, on December 15, 2010, on CD, index number from 10:04:37 to 10:13:16, is prepared in full compliance with the current transcription format for Judicial Proceedings and is a true and accurate non-compressed transcript of the proceedings as recorded to the best of my knowledge and ability.

S/ Jennifer Wilson

December 20, 2010

JENNIFER WILSON

Date

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